REMARKS

I. Status Of The Claims.

This Response and Amendment cancels Claim 1, amends Claims 2-12, and adds new Claims 22-28. Thus, Claims 2-28 are pending in the Application.

II. New Claims.

New Claims 22-23 are based on original Claim 1 and the invention as described throughout the specification. New Claims 23-28 are based on original Claims 13-17 and the invention as described throughout the specification. These new Claims do not add new matter. Entry of new Claims 22-28 is respectfully requested.

III. Response to Restriction Requirement.

In response to the Restriction Requirement, Applicants traverse the Restriction Requirement on the grounds that a combined search and examination for combined Restriction Groups I-IV would not impose a serious burden on the Examiner.

Applicants request reconsideration and withdrawal of the Restriction based on the following remarks.

A. The Inventions Of Group I And Group II Are Related And A Combined Examination of the Invention Does Not Impose a Serious Burden On the Examiner.

1. The Inventions Of Group I And Group II Are Related And The Office Has Not Shown That The Inventions Are Distinct.

Applicants have canceled Claim 1 and added new Claims 22-28. Applicants request that the following arguments be applied to these new Claims.

The product claims of Group I and the process claims of Group II are related as stated by the Examiner on page 2, numbered paragraph 2 of the Office Action. However, the Office incorrectly asserts reasoning that the inventions are distinct. The alternative use suggested by the Office cannot be accomplished with Applicants claimed product. Applicants request consideration of the following remarks withdrawal of the Restriction on this basis.

In an attempt to satisfy the burden of the Office to show that the inventions are distinct, the Office asserts that "[i]n the instant case antigen- or antibody sensor of claim 1 can be used in a materially different process such as purifying target antigen or antibody by batch

purification. Applicants do not contest the accuracy of this statement. However, this statement does not satisfy the burden of the Office to show that the inventions are distinct.

The claims of Group I and the claims of Group II are both limited to a reagent mixture comprising a plurality of sensor particles that interact specifically with:

(A) at least one analyte selected from the group consisting of alkali metal ions, alkaline earth metal ions, ammonium, halide ions, oxygen, pH, and carbon dioxide; and

(B) at least one analyte selected from the group consisting of saccharides, ammonia, urea, uric acid, cholesterol, triglycerides, ethanol, lactate, salicylate, acetaminophen, bilirubin, and creatinine;

In both the Claims of Groups I and II, antigens and antibody sensors are alternate analyte sensor particles claimed as part of a Markush grouping. Thus, it is unclear how the statement of the Office can be used to show that the inventions are distinct as antigens and antibody sensors are an alternate, but not required, part of the invention of both Groups I and II and the Office has not asserted that the reagent, as claimed, can be used in a materially different process.

2. A Combined Examination of Groups I and II Does Not Impose a Serious Burden On the Examiner.

The claims have similar limitations such that a combined search and Examination is not burdensome on the Examiner.

As noted above, both Groups I and II are limited to a plurality of sensor particles that interact specifically with:

(A) at least one analyte selected from the group consisting of alkali metal ions, alkaline earth metal ions, ammonium, halide ions, oxygen, pH, and carbon dioxide; and

(B) at least one analyte selected from the group consisting of saccharides, ammonia, urea, uric acid, cholesterol, triglycerides, ethanol, lactate, salicylate, acetaminophen, bilirubin, and creatinine;

Further, both Groups I and II are limited to particles that interact with an analyte selected from the group consisting of enzymes, antibodies, antigens, and polynucleotide sequences (Element (C) in Claim 13, and one of the corresponding target analyte analytes in

elements (c)-(e) in Claim 22).

Thus, given the common features of Groups I and II, a search and examination of both these groups can be made without serious burden. Applicants request that these Groups be combined for search and Examination.

IV. Election.

Notwithstanding the objection to the Restriction/Election requirement, Applicants provisionally elect, with traverse, the claims drawn to a reagent for measuring target analytes in a sample, Group I (now applied to Claims 2-13, and 22-23) and also request that Claims 24-28, depending from Claim 22 and containing all the limitations of Claim 22 be examined with this group of Claims. Applicants provisionally elect Group I without prejudice to pursue the non-elected claims at a future date in this or in another application. In addition, Applicants request rejoinder of the non-elected claims, where appropriate, should the elected invention be found allowable.

V. Provisional Election of Species.

Applicants traverse the requirement for the election of species. The Office has restricted Applicants invention to one of the groups; A or B; C, D or E. However, Applicants invention, in the reagent of Group I, both elements A and B, and one of elements C, D, or E is required. Accordingly, the Examiner's election requirement does not allow applicants to claim their entire invention, to which they are entitled to by statute. This election requirement is clearly erroneous. Applicants' respectfully request withdrawal of the species election on this basis.

Should the Office maintain the species election requirement, Applicants elect the group A or B.

CONCLUSION

The Applicant believes that all pending claims are in condition for allowance and such action is earnestly requested. If the present amendments and remarks do not place the Application in condition for allowance, the Examiner is encouraged to contact the undersigned directly if there are any issues that can be resolved by telephone with the Applicants representative.

The Commissioner is authorized to charge $450, the cost of a two-month extension to Deposit Account No. 19-2090. No other fees are believed due by this Response. If, however, any other fees are due, the Commissioner is authorized to charge any other fees associated with this Response and Amendment to Deposit Account No. 19-2090.

Respectfully Submitted,
SHELDON & MAK PC

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